

EXHIBIT D

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Case No.: 19-cv-00805-TSZ

tinyBuild LLC,

Plaintiff/Counterclaim Defendant,

v.

Nival International Limited

Defendant/Counterclaim Plaintiff.

**NIVAL INTERNATIONAL
LIMITED'S AMENDED
OBJECTIONS AND RESPONSES
TO TINYBUILD LLC'S
INTERROGATORIES AND
REQUESTS FOR DOCUMENTS**

NIVAL INTERNATIONAL LIMITED'S
AMENDED
OBJECTIONS AND RESPONSES TO TINYBUILD LLC'S
INTERROGATORIES AND REQUESTS FOR DOCUMENTS

INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant Nival International Limited (“Nival”) hereby responds to Plaintiff tinyBuild LLC’s (“TinyBuild”) First Interrogatories (the “Interrogatories”). Nival’s failure to object to a particular Interrogatory or willingness to respond to an Interrogatory is not, and shall not be construed as, an admission of the relevance or admissibility into evidence of any such response or that the purported factual premise for any Interrogatory is valid or accurate. The inadvertent production of any privileged information shall not be deemed to be a waiver of any applicable privilege with respect to such response or with respect to any other response.

The responses herein are made subject to all appropriate objections (including, but not limited to, objections as to confidentiality, relevancy, propriety and admissibility), which would require the exclusion of any statement contained herein if answered by a witness present and testifying in court. All such objections and grounds are reserved and may be interposed at the time of trial or otherwise.

Nival has not yet completed its investigation of the facts relating to this action; has not yet interviewed all witnesses in this action; has not yet completed its discovery in this action; and has not yet completed its preparation for trial. Consequently, the following responses are given without prejudice to Nival’s right to produce, at time of trial, subsequently discovered evidence relating to proof of presently known material facts and to produce all evidence, whenever discovered, relating to the proof of subsequently discovered material facts.

All the responses contained herein are based only upon such information and documents that are presently available to and specifically known to Nival and the responses disclose only those contentions which presently occur to Nival. As discovery proceeds, witnesses, facts and evidence may be discovered that are not set forth herein, but which may have been responsive to a discovery request.

Furthermore, facts and evidence now known may be imperfectly understood and, accordingly, such facts and evidence may, in good faith, not be included in the following responses. It is anticipated that further discovery, independent investigation, legal research and analysis will result in additional facts, added meaning to known facts, and entirely new factual conclusions and legal contentions, all of which may lead to substantial additions to or modifications to the responses set forth herein. Accordingly, the following responses are given without prejudice to Nival's right to make changes to any and all answers herein as additional facts are ascertained, analyses are made, research is performed and contentions made. Notwithstanding the foregoing, the responses contained herein are made in a good faith effort to supply as much factual information and as much specificity as is presently known and responsive to the request. Nonetheless, Nival assumes no obligation to voluntarily supplement or amend these responses to reflect witnesses, facts or evidence following the service of these responses

Specific Objections and Responses to Interrogatories

Interrogatory No. 1: Identify all persons with knowledge of the facts alleged in the Complaint, including but not limited to each individual who performed work on the "Product," as defined in the Agreement, and for each such person identify the subject(s) of their knowledge.

Objections: Nival objects to this Interrogatory to the extent that it seeks information that is protected from discovery or disclosure by virtue of the right to privacy or which constitutes confidential information, proprietary information, or trade secrets, or which are otherwise protected from disclosure or discovery pursuant to case law, statute, regulation or order and will not produce any such information absent an appropriate protective order governing the use of

1 confidential material in this litigation is entered by the Court. Without waiving,
2 and subject to, the foregoing objections, Nival responds as follows:

3 Response:

4 1. Alex Nichiporchik, a co-founder of Plaintiff tinyBuild LLC
5 (“tinyBuild”) and a manager/governor of tinyBuild, is expected to have
6 information regarding communications between the parties, the performance of
7 both parties under the agreement, and payments made under the agreement.
8 Address: c/o Garvey Schubert Barer P.C., 1191 Second Ave., Seattle, WA 98101.

9 2. Andrei Podoprighora, an employee of Plaintiff tinyBuild, is expected to
10 have information regarding communications between the parties and the
11 performance of both parties under the agreement. Address: c/o Garvey Schubert
12 Barer P.C., 1191 Second Ave., Seattle, WA 98101

13 3. Luke Burtis a co-founder of Plaintiff tinyBuild and a
14 manager/governor of tinyBuild, is expected to have information regarding
15 communications between the parties, the performance of both parties under the
16 agreement, and payments made under the agreement. Address: c/o Garvey
17 Schubert Barer P.C., 1191 Second Ave., Seattle, WA 98101

18 4. Antonio Assenza, an employee of Plaintiff tinyBuild, is expected to
19 have information regarding communications between the parties and the
20 performance of both parties under the agreement. Address: c/o Garvey Schubert
21 Barer P.C., 1191 Second Ave., Seattle, WA 98101.

22 5. Sergey Orlovskiy, founder and CEO of Nival, has information
23 regarding communications between the parties, the performance of both parties
24 under the agreement, and payments made under the agreement. Address: c/o
25 Boston Law Group, PC, 825 Beacon Street, Ste. 20, Newton Centre, MA 02459.

26 6. Ilya Yakimov, CFO of Nival, has information regarding
27 communications between the parties, the performance of both parties under the
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1 agreement, and payments made under the agreement. Address: c/o Boston Law
2 Group, PC, 825 Beacon Street, Ste. 20, Newton Centre, MA 02459.

3 7. Alexander Myasishev, employee of Nival, has information regarding
4 communications between the parties, the performance of both parties under the
5 agreement. Address: c/o Boston Law Group, PC, 825 Beacon Street, Ste. 20,
6 Newton Centre, MA 02459

7 8. Saavas Petras, independent video game designer who was contracted
8 to design the game at issue in the agreement, has information regarding the
9 performance of the parties under the agreement. Address: Steliou Kotiadi 7, 3rd
10 Floor, Greece, 85100.

11
12 **Interrogatory No. 2:** Identify all persons who have been granted access
13 to any source code related to the “Product,” as defined in the Agreement.

14 **Objections:**

15 (a) Nival objects to this request in its entirety on the basis that it seeks
16 documents or information that are neither relevant to the subject matter of this
17 action nor calculated to lead to the discovery of admissible evidence. None of the
18 claims or defenses in this matter in any way depend on who had access to the
19 source code related to the Product and why they had access. Each Party’s causes
20 of action arise out of claims that the other did not perform under the Agreement,
21 and no allegations or affirmative defenses in this action relate to who or why any
22 person had access to any source code. Who had access to the source code is
23 wholly irrelevant to this action and could not lead to the discovery of admissible
24 evidence.

25 (b) Nival objects to this Interrogatory to the extent that it seeks
26 information that is protected from discovery or disclosure by virtue of the right to
27 privacy or which constitutes confidential information, proprietary information, or
28

1 trade secrets, or which are otherwise protected from disclosure or discovery
2 pursuant to case law, statute, regulation or order and will not produce any such
3 information absent an appropriate protective order governing the use of
4 confidential material in this litigation is entered by the Court. Specifically,
5 TinyBuild is a competitor of Nival and Nival considers the names and contact
6 information of its personnel, and the specific work that they do on a project, to be
7 confidential and proprietary information. TinyBuild could use this information to
8 solicit Nival's personnel. The disclosure of this information to TinyBuild would
9 cause damage to Nival. Given that the information is also wholly irrelevant (see
10 above objection), it is apparent that TinyBuild requests this information for no
11 other purpose but to harass and damage Nival.

12 On the basis of the foregoing, Nival will not respond to this Interrogatory.
13 However, in the event that the Court should find that the information requested is
14 discoverable, Nival will only produce the responsive information subject to a
15 protective order under an "attorneys' eyes only" designation.

16
17 **Interrogatory No. 3:** With respect to every person identified in response
18 to Interrogatory No. 2, identify the circumstances by which they were given access
19 to Product source code, and the reason why they were given such access.

20 **Objections:**


21 (a) Nival objects to this request in its entirety on the basis that it seeks
22 documents or information that are neither relevant to the subject matter of this
23 action nor calculated to lead to the discovery of admissible evidence. None of the
24 claims or defenses in this matter in any way depend on who had access to the
25 source code related to the Product and why they had access. Each Party's causes
26 of action arise out of claims that the other did not perform under the Agreement,
27 and no allegations or affirmative defenses in this action relate to who or why any
28

1 person had access to any source code. Who had access to the source code is
 2 wholly irrelevant to this action and could not lead to the discovery of admissible
 3 evidence.

4 (b) Nival objects to this Interrogatory to the extent that it seeks
 5 information that is protected from discovery or disclosure by virtue of the right to
 6 privacy or which constitutes confidential information, proprietary information, or
 7 trade secrets, or which are otherwise protected from disclosure or discovery
 8 pursuant to case law, statute, regulation or order and will not produce any such
 9 information absent an appropriate protective order governing the use of
 10 confidential material in this litigation is entered by the Court. Specifically,
 11 TinyBuild is a competitor of Nival and Nival considers the names and contact
 12 information of its personnel, and the specific work that they do on a project, to be
 13 confidential and proprietary information. TinyBuild could use this information to
 14 solicit and harass Nival's personnel. The disclosure of this information to
 15 TinyBuild would cause damage to Nival. Given that the information is also wholly
 16 irrelevant (see above objection), it is apparent that TinyBuild requests this
 17 information for no other purpose but to harass and damage Nival.

18 On the basis of the foregoing, Nival will not respond to this Interrogatory.
 19 However, in the event that the Court should find that the information requested is
 20 discoverable, Nival will only produce the responsive information subject to a
 21 protective order under an "attorneys' eyes only" designation.

22
 23 As to all objections:


24
 25 
 26 Matthew Sharafar, Esq.

September 24, 2019

Date

Party Verification

I, on behalf of Nival International Limited, have read the foregoing answers and responses to tinyBuild LLC's First Interrogatories and believe them to be true and correct.


By: Tanya Labineva

8th September 2019
Date

1 **REQUESTS FOR PRODUCTION OF DOCUMENTS**

2 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Defendant
3 Nival International Limited (“Nival”), by and through its undersigned counsel,
4 hereby responds to Plaintiff tinyBuild LLC’s (“tinyBuild”) First Requests for
5 Production of Documents (the “Requests”). Nival’s failure to object to a particular
6 Request or willingness to respond to a Request is not, and shall not be construed
7 as, an admission of the relevance or admissibility into evidence of any such
8 response or that the purported factual premise for any Request is valid or accurate.
9 The inadvertent production of any privileged information shall not be deemed to be
10 a waiver of any applicable privilege with respect to such response or with respect
11 to any other response.

12 Each response is subject to all appropriate objections (including, but not
13 limited to, objections as to confidentiality, relevancy, propriety, and admissibility),
14 which would require the exclusion of any document produced herewith if
15 submitted at trial. All such objections and grounds are reserved and may be
16 interposed at the time of trial or otherwise.

17 Nival has not yet completed its investigation of the facts relating to this
18 action; has not yet interviewed all witnesses in this action; has not yet completed
19 its discovery in this action; and has not yet completed its preparation for trial.
20 Consequently, the following responses are given without prejudice to Nival’s right
21 to produce, at time of trial, subsequently discovered documents relating to proof of
22 presently known material facts and to produce all evidence, whenever discovered,
23 relating to the proof of subsequently discovered material facts.

24 All the responses contained herein are based only upon such information and
25 documents that are presently available to and specifically known to Nival and the
26 responses disclose only those contentions which presently occur to Nival. As
27 discovery proceeds, documents may be discovered that are not set forth herein, but
28

1 which may have been responsive to a discovery request. Furthermore, facts and
2 evidence now known may be imperfectly understood and, accordingly, documents
3 may, in good faith, not be included in the following responses. It is anticipated
4 that further discovery, independent investigation, legal research and analysis will
5 result in additional facts, added meaning to known facts, and entirely new factual
6 conclusions and legal contentions, all of which may lead to substantial additions to
7 or modifications to the responses set forth herein and documents produced
8 herewith. Accordingly, the following responses are given without prejudice to
9 Nival's right to make changes to any and all answers herein as additional facts are
10 ascertained, analyses are made, research is performed and contentions made.
11 Notwithstanding the foregoing, the responses contained herein are made in a good
12 faith effort to supply as much factual information and as much specificity as is
13 presently known and responsive to the Request.

14
15 **Request for Production No. 1:** Produce all documents identified or
16 referenced in response to any of the above interrogatories.

17 **Response:** No documents were referenced or identified in response to any
18 of the above interrogatories. Accordingly, no documents can be produced. Nival
19 reserves the right to lodge objections to this request if at any time the request could
20 possibly refer to any documents.

21
22 **Request for Production No. 2:** Produce all documents related to the
23 drafting and execution of the Agreement, including drafts and communications
24 about the Agreement's terms.

25 **Objections and Response:**
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1 (a) Nival objects to this request to the extent that it seeks information or
 2 documents protected by any privilege, including, without limitation, the attorney-
 3 client privilege or the attorney work product doctrine.

4 (b) Nival objects to this request to the extent that it seeks information or
 5 documents that are protected from discovery or disclosure by virtue of the right to
 6 privacy, constitute confidential information, proprietary information, or trade
 7 secrets, or which are otherwise protected from discovery or disclosure pursuant to
 8 case law, statute, regulation or order and will not produce any such information
 9 absent an appropriate protective order governing the use of confidential material in
 10 this litigation is entered by the Court. Such documents may include information
 11 deemed confidential or proprietary to Nival, including, without limitation, internal
 12 marketing and pricing models and operational information.

13 Without waiving, and subject to, the foregoing objections, Nival will
 14 produce copies of relevant and non-privileged responsive documents in its
 15 possession, custody or control. Any confidential information will be produced
 16 subject to the entry of a protective order.

17
 18 **Request for Production No. 3:** Produce all communications between
 19 You and Savvas Petras.

20 **Objections and Response:**

21 (a) Nival objects to this request to the extent that it seeks information or
 22 documents that are protected from discovery or disclosure by virtue of the right to
 23 privacy, constitute confidential information, proprietary information, or trade
 24 secrets, or which are otherwise protected from discovery or disclosure pursuant to
 25 case law, statute, regulation or order and will not produce any such information
 26 absent an appropriate protective order governing the use of confidential material in
 27 this litigation is entered by the Court.

1 Without waiving, and subject to, the foregoing objections, Nival will
2 produce copies of relevant and non-privileged responsive documents in its
3 possession, custody or control. Any confidential information will be produced
4 subject to the entry of a protective order.

5
6 **Request for Production No. 4:** Produce all financial records and
7 other documents reflecting costs or expenses incurred by Nival in connection with
8 the Product, as defined in the Agreement.

9 **Objections:**

10 (a) Nival objects to this request in its entirety on the basis that it seeks
11 documents or information that are neither relevant to the subject matter of this
12 action nor calculated to lead to the discovery of admissible evidence. None of the
13 claims or defenses in this matter in any way depend on the costs or expenses
14 incurred by Nival in connection with the Product. No portion of the Agreement
15 takes into account Nival's costs or expenses incurred in connection with the
16 Product. No part of either Party's causes of action in any way reference or depend
17 on Nival's costs or expenses incurred in connection with the Product. The
18 amounts to be paid to Nival pursuant to the Agreement do not factor in Nival's
19 costs or expenses. Nival's costs and expenses incurred are wholly irrelevant to this
20 action and could not lead to the discovery of admissible evidence.

21 (b) Nival objects to this request to the extent that it seeks information that
22 is protected from discovery or disclosure by virtue of the right to privacy or which
23 constitutes confidential information, proprietary information, or trade secrets, or
24 which are otherwise protected from disclosure or discovery pursuant to case law,
25 statute, regulation or order and will not produce any such information absent an
26 appropriate protective order governing the use of confidential material in this
27 litigation is entered by the Court. Specifically, TinyBuild is a competitor of Nival
28

1 and Nival considers its internal finances, including costs and expenses incurred in
 2 connection with the work that it does, to be confidential and proprietary
 3 information. TinyBuild could use this information to replicate Nival's business
 4 practices and improperly compete with Nival. The disclosure of this information
 5 to TinyBUild would cause damage to Nival. Given that the information is also
 6 wholly irrelevant (see above objection), it is apparent that TinyBuild requests this
 7 information for no other purpose but to harass and damage Nival.

8 On the basis of the foregoing, Nival will not respond to this request.
 9 However, in the event that the Court should find that the documents requested are
 10 discoverable, Nival will only produce the responsive documents subject to a
 11 protective order under an "attorneys' eyes only" designation.

12
 13 **Request for Production No. 5:** Produce all communications between
 14 You and any person related to the allegations in this lawsuit.

15 **Objections and Response:**

16 (a) Nival objects to this request to the extent that it seeks information or
 17 documents protected by any privilege, including, without limitation, the attorney-
 18 client privilege or the attorney work product doctrine.

19 (b) Nival objects to this request to the extent that it seeks information or
 20 documents that are protected from discovery or disclosure by virtue of the right to
 21 privacy, constitute confidential information, proprietary information, or trade
 22 secrets, or which are otherwise protected from discovery or disclosure pursuant to
 23 case law, statute, regulation or order and will not produce any such information
 24 absent an appropriate protective order governing the use of confidential material in
 25 this litigation is entered by the Court (the requested communications may contain
 26 information considered confidential or proprietary to Nival, including, without
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1 limitation, the names of Nival personnel, the internal business practices of Nival,
2 and the internal financial information of Nival).

3 Without waiving, and subject to, the foregoing objections, Nival will
4 produce copies of relevant and non-privileged responsive documents in its
5 possession, custody or control. Any confidential information will be produced
6 subject to the entry of a protective order.

7
8 **Request for Production No. 6:** Produce all communications with
9 Nival employees or agents, including but not limited to emails and text messages,
10 related to Nival's development of the Product, as defined in the Agreement.

11 **Objections and Response:**

12 (a) Nival objects to this request to the extent that it seeks information or
13 documents protected by any privilege, including, without limitation, the attorney-
14 client privilege or the attorney work product doctrine.

15 (b) Nival objects to this request to the extent that it seeks information or
16 documents that are protected from discovery or disclosure by virtue of the right to
17 privacy, constitute confidential information, proprietary information, or trade
18 secrets, or which are otherwise protected from discovery or disclosure pursuant to
19 case law, statute, regulation or order and will not produce any such information
20 absent an appropriate protective order governing the use of confidential material in
21 this litigation is entered by the Court (the requested communications may contain
22 information considered confidential or proprietary to Nival, including, without
23 limitation, the names of Nival personnel, the internal business practices of Nival,
24 and the internal financial information of Nival).

25 Without waiving, and subject to, the foregoing objections, Nival will
26 produce copies of relevant and non-privileged responsive documents in its
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1 possession, custody or control. Any confidential information will be produced
2 subject to the entry of a protective order.

3
4 **Request for Production No. 7:** Produce all communications with
5 third parties, including but not limited to emails and text messages, related to
6 Nival's development of the Product, as defined in the Agreement.

7 **Objections and Response:**

8 (a) Nival objects to this request to the extent that it seeks information or
9 documents protected by any privilege, including, without limitation, the attorney-
10 client privilege or the attorney work product doctrine.

11 (b) Nival objects to this request to the extent that it seeks information or
12 documents that are protected from discovery or disclosure by virtue of the right to
13 privacy, constitute confidential information, proprietary information, or trade
14 secrets, or which are otherwise protected from discovery or disclosure pursuant to
15 case law, statute, regulation or order and will not produce any such information
16 absent an appropriate protective order governing the use of confidential material in
17 this litigation is entered by the Court (the requested communications may contain
18 information considered confidential or proprietary to Nival, including, without
19 limitation, the names of Nival personnel, the internal business practices of Nival,
20 and the internal financial information of Nival).

21 Without waiving, and subject to, the foregoing objections, Nival will
22 produce copies of relevant and non-privileged responsive documents in its
23 possession, custody or control. Any confidential information will be produced
24 subject to the entry of a protective order.

25
26 **Request for Production No. 8:** Produce timesheets and any other data
27 recording time spent by Nival employees or agents developing the Product.

1 Objections:

2 (a) Nival objects to this request in its entirety on the basis that it seeks
3 documents or information that are neither relevant to the subject matter of this
4 action nor calculated to lead to the discovery of admissible evidence. None of the
5 claims or defenses in this matter in any way depend on the time sheets or other
6 data recording time spent by Nival employees or agents developing the Product.
7 No portion of the amount to be paid by TinyBuild to Nival under the Agreement
8 takes into account the time spent by Nival employees (or other expenses or costs
9 incurred by Nival). No part of either Party's causes of action take into account
10 such time, nor do either Party's affirmative defenses. The time spent by Nival's
11 employees or agents are wholly irrelevant to this action and could not lead to the
12 discovery of admissible evidence.

13 (b) Nival objects to this request to the extent that it seeks information that
14 is protected from discovery or disclosure by virtue of the right to privacy or which
15 constitutes confidential information, proprietary information, or trade secrets, or
16 which are otherwise protected from disclosure or discovery pursuant to case law,
17 statute, regulation or order and will not produce any such information absent an
18 appropriate protective order governing the use of confidential material in this
19 litigation is entered by the Court. Specifically, TinyBuild is a competitor of Nival
20 and Nival considers its internal operating documents and information regarding its
21 personnel to be confidential and proprietary information. TinyBuild could use this
22 information to replicate Nival's business practices and improperly compete with
23 Nival. TinyBuild could use this information to solicit and harass Nival's
24 personnel. The disclosure of this information to TinyBuild would cause damage
25 to Nival. Given that the information is also wholly irrelevant (see above
26 objection), it is apparent that TinyBuild requests this information for no other
27 purpose but to harass and damage Nival.
28

1 On the basis of the foregoing, Nival will not respond to this request.
2 However, in the event that the Court should find that the documents requested are
3 discoverable, Nival will only produce the responsive documents subject to a
4 protective order under an “attorneys’ eyes only” designation.
5

6 **Request for Production No. 9:** Produce balance sheets, income
7 statements, profit and loss statements, and any other corporate financial statements
8 from January 2018 through the present.

9 **Objections:**

10 (a) Nival objects to this request in its entirety on the basis that it seeks
11 documents or information that are neither relevant to the subject matter of this
12 action nor calculated to lead to the discovery of admissible evidence. None of the
13 claims or defenses in this matter in any way depend on Nival’s balances, income,
14 profits or losses or any other corporate financial information. No portion of the
15 Agreement takes into account Nival’s financial information. No part of either
16 Party’s causes of action in any way reference or depend on Nival’s financial
17 information or status, nor do any Party’s affirmative defenses. The amounts to be
18 paid to Nival pursuant to the Agreement do not depend in any manner on Nival’s
19 financial status. Nival’s financial information is wholly irrelevant to this action
20 and could not lead to the discovery of admissible evidence.

21 (b) Nival objects to this request to the extent that it seeks information that
22 is protected from discovery or disclosure by virtue of the right to privacy or which
23 constitutes confidential information, proprietary information, or trade secrets, or
24 which are otherwise protected from disclosure or discovery pursuant to case law,
25 statute, regulation or order and will not produce any such information absent an
26 appropriate protective order governing the use of confidential material in this
27 litigation is entered by the Court. Specifically, TinyBuild is a competitor of Nival
28

1 and Nival considers its internal financial information to be confidential and
 2 proprietary information. TinyBuild could use this information to replicate Nival's
 3 business practices and improperly compete with Nival. The disclosure of this
 4 information to TinyBuild would cause damage to Nival. Given that the
 5 information is also wholly irrelevant (see above objection), it is apparent that
 6 TinyBuild requests this information for no other purpose but to harass and damage
 7 Nival.

8 On the basis of the foregoing, Nival will not respond to this request.
 9 However, in the event that the Court should find that the documents requested are
 10 discoverable, Nival will only produce the responsive documents subject to a
 11 protective order under an "attorneys' eyes only" designation.

12
 13 **Request for Production No. 10:** Produce documents sufficient to
 14 identify every company with which Nival has performed video game development
 15 services, and each specific project Nival has worked on from January 1, 2018 to
 16 the present.

17 **Objections:**

18 (a) Nival objects to this request in its entirety on the basis that it seeks
 19 documents or information that are neither relevant to the subject matter of this
 20 action nor calculated to lead to the discovery of admissible evidence. None of the
 21 claims or defenses in this matter in any way depend on Nival's other customers or
 22 affiliates, regardless of the time period in which Nival worked with them. There
 23 are no allegations in either Party's causes of action or their affirmative defenses
 24 that could ever possibly relate to the other company's with which Nival has
 25 performed video game development services. It is wholly irrelevant what other
 26 projects Nival has worked on. This action relates only to the specific project to be
 27 worked on between the Parties in this action, and no other. The amounts to be paid
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1 to Nival pursuant to the Agreement does not depend on what other projects Nival
2 was involved with. The requested information is wholly irrelevant to this action
3 and could not lead to the discovery of admissible evidence.

4 (b) Nival objects to this request to the extent that it seeks information that
5 is protected from discovery or disclosure by virtue of the right to privacy or which
6 constitutes confidential information, proprietary information, or trade secrets, or
7 which are otherwise protected from disclosure or discovery pursuant to case law,
8 statute, regulation or order and will not produce any such information absent an
9 appropriate protective order governing the use of confidential material in this
10 litigation is entered by the Court. Specifically, TinyBuild is a competitor of Nival
11 and Nival considers the other persons for whom it performs services for to be
12 confidential and proprietary information. TinyBuild could use this information to
13 replicate Nival's business practices, solicit Nival's affiliates, harass Nival's
14 affiliates, interfere with Nival's relationships with its affiliates, and otherwise
15 improperly compete with Nival. The disclose of this information to TinyBuild
16 would cause damage to Nival. Given that the information is also wholly irrelevant
17 (see above objection), it is apparent that TinyBuild requests this information for no
18 other purpose but to harass and damage Nival.

19 On the basis of the foregoing, Nival will not respond to this request.
20 However, in the event that the Court should find that the documents requested are
21 discoverable, Nival will only produce the responsive documents subject to a
22 protective order under an "attorneys' eyes only" designation.

23
24
25 **Request for Production No. 11:** Produce all documents related to
26 Nival's work on a purported Beta-stage Product, as defined in the Agreement.

27 Objections:
28

1 (a) Nival objects to this request to the extent that it seeks information or
2 documents that are protected from discovery or disclosure by virtue of the right to
3 privacy, constitute confidential information, proprietary information, or trade
4 secrets, or which are otherwise protected from discovery or disclosure pursuant to
5 case law, statute, regulation or order and will not produce any such information
6 absent an appropriate protective order governing the use of confidential material in
7 this litigation is entered by the Court.

8 Without waiving, and subject to, the foregoing objections, Nival will
9 produce copies of relevant and non-privileged responsive documents in its
10 possession, custody or control. Any confidential information will be produced
11 subject to the entry of a protective order.

12
13
14 Dated: September 24, 2019

/s/ Matthew Shayefar

Matthew Shayefar, Esq.

Certificate of Service

I hereby certify that on the date indicated below I electronically served the foregoing document via email on the persons identified below.

Dated: September 24, 2019 /s/ Matthew Shayefar

Service List:

Diana S. Breaux
Garvey Schubert Barer, P.C.
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